1:Stanford U. S-4, 5 1956 AF15 East China
~~AF15~~ AF15

505

in the Shanghai-Hankow section of the Yangtze River have been cut 50 per cent below railway rates.[17]

The volume of coastal shipping in East China was low in 1950 because of the Nationalist blockade and high shipping rates. In 1951 and 1952, the rates were lowered and the classification of commodities were adjusted, with special emphasis on coal, salt, lumber, and grains on which the rates were fixed below cost in order to increase the volume of traffic.[18]

505
471

B. Navigation Administration and Shippers

The administrative system of navigation in East China can be divided into two categories, the East China Ocean Shipping Administration, governing coastal shipping, and the East China Inland Waterways Administration, governing inland water transportation.[19] These district administrations are under the leadership of the Ministry of Communications. The former China Merchant Steamship Company, with its

17. Fei-wei Ti Ts'ai-ching Yü Chiao-t'ung [Finance, Economics and Transportation in Communist China], Taipei, The Sixth Section, Central Committee, Nationalist Party, 1953, p. 196.
18. Ibid., pp. 199-200.
19. Ibid., p. 169.

505 471 head office in Shanghai, was first changed to the People's Steamship Company in 1950 and reorganized into the Ocean Shipping Administration[20] in 1951. The former Min-sheng Industrial Corporation, the largest privately owned shipping company in China, was reorganized into a joint public-private ownership concern in 1952 and changed its name to Min-sheng Shipping Corporation.[21] A number of privately owned inland water transportation firms, including Chung-hsing, Ta-t'ung and Ta-ta, were transformed into jointly owned and operated companies. By 1953, about thirty-four companies had been transformed into jointly owned and operated firms.[22]

V. AIR TRANSPORTATION IN EAST CHINA

509 When the Nationalist were forced to flee the Mainland in 1949, the two aviation companies, the China National Aviation Corporation and the Central Aviation Transport Corporation, took

20. Navigation in Communist China, p. 3.
21. Ibid.
22. Ching-chi Nien-pao [Economic Year Book] Hong Kong, Ching chi tao-pao she 1954, p. 52.

439 The above trend has been further confirmed in a recent report from a Communist paper in Hong Kong which, while alleging a substantial increase in Shanghai's export trade in 1954 as compared with 1936, also stated that the volume of exports exceeded that of imports. Various manufactures were again mentioned as among the exports while former imports such as newsprint, glycerine, caustic soda, and pure soda, were no longer imported.[10]

Nationalization of Foreign Trade

• 471 439 A number of developments in East China under the present regime are especially symbolic of the radical change in China's foreign economic relations in recent years. One of the first things to be noted is the gradual elimination of private business from the foreign trade field. There were, for instance, as many as 1,434 registered private import firms in Shanghai prior to the Communist occupation.[11] By 1952, the total number of registered private importers and exporters had dropped to 800 for the country as a whole.[12] Even prior to

10. Wen-hui Pao [Wen-hui Daily], Hong Kong, June 22, 1955.

11. Far Eastern Economic Review, Hong Kong, April 19, 1951, p. 483.

12. Ching-chi Chou-pao [Economic Weekly], Shanghai, Oct. 2, 1952, pp. 775-76.

439 the Five-Anti Campaign, government trading
•471 already accounted for 67 per cent of Shanghai's exports and 54 per cent of the city's imports. Moreover, only 10 per cent of the private foreign trade business was accounted for by non-Chinese firms.[13] This trend of nationalization and naturalization of foreign trade has by now been carried to its logical conclusion.

In the second place, it may be noted that as early as October 1949, when there was no United Nations embargo against Communist China, a trade agreement was concluded between the USSR and East China, under which 8,000 tons of Russian newsprint and paper pulp were bartered for 1,024 quintals of bristles and 800 bags of raw silk.[14] While no other regional trade pacts have been concluded by East China thereafter, in this case the reorientation of China's foreign trade toward the Soviet orbit can be clearly seen.

Black Market Foreign Exchange

457 However, one would be mistaken if one
439 were to conclude that such East China ports as Shanghai and Amoy, which were focal points

13. Ibid.
14. Economic Weekly, Shanghai, May 25, 1950, p. 9.

2: Murphy G-4 (no date) 1953 AF15 East China AF15

foreign community. It was only after 1900, when the Japanese became one of the leading groups in the foreign community, that the proportion of foreign women reached even a third.

The Japanese are Shanghai's nearest foreign neighbors, and with their industrial experience and their drive for economic expansion overseas, they made Shanghai one of their most important industrial centers, especially for the manufacture of cotton textiles, taking advantage of relatively cheap Chinese labor, locally grown cotton, and cheap power to produce for the China market inside the low tariff wall. The Treaty of Shiminoseki in 1895, which ended the war of 1894–5 between China and Japan over Korea, first granted to foreigners the right to establish factories in the treaty ports of China, and this originally Japanese privilege was then taken advantage of by all the other powers having most-favored-nation treaty agreements with China.

Despite foreign investments, however, Shanghai remained a Chinese city, still politically dominated by the handful of foreigners, but economically more and more maintained by the Chinese, as native industrial and commercial capital and management were increasingly added to native labor in the growing industry of the city during the twentieth century.*

Shanghai and China

Throughout the period 1843–1937, the foreigners at Shanghai pressed the Chinese authorities for an extension of their own administrative powers and of the area of the two foreign settlements. In this endeavour they found lukewarm support or outright opposition from the foreign diplomatic representatives at Peking and from the foreign offices in the home countries, who shied away from the implications of full sovereignty over Chinese territory and who continually reminded the overzealous foreigners in Shanghai of their precarious and equivocal legal position in asserting "rights" of taxation, defense, and administrative independence. The complex political and economic structure of modern Shanghai was erected primarily on the precedents resulting from bluff, maneuver, and *force majeure* of the assertive foreign residents of the city.

* A majority of the city's industrial enterprises were Chinese-owned by at least 1920.

2: Murphy G-4 (no date) 1953 AF15 East China AF15

These faults are apart from the inherent difficulties of the problem. Until 1945 no one municipal authority had jurisdiction over the entire city, and it was impossible for any one survey to collect complete data, especially on matters such as wages, costs, and capital investment. A much greater difficulty was presented by the fact that something like 80 per cent of the manufacturing establishments in Shanghai employed fewer than 30 workers (and were therefore not liable to regulation or inspection under the National Factory Act of 1929) and operated in private houses. What statistics are used here must be read with the foregoing in mind, realizing that they are in nearly all cases approximations of limited reliability.[1]

While perhaps four-fifths of the total number of "factories" in Shanghai employed fewer than 30 workers, probably about two-thirds of the total industrial workers in the city were employed in factories with a labor force of over 30, and perhaps three-quarters of the total industrial production, by value, of the entire city was accounted for by these larger factories.[2] Most of the figures which will be cited here are based on investigations of these larger factories, and while they are to that extent incomplete, they do at least deal with the most important segment of Shanghai manufacturing in terms of labor force and of value of production.

The Pattern of Manufacturing

Estimates of the degree to which China's industry was concentrated in Shanghai before 1937 differ, but it is clear that Shanghai accounted for about half of the country's large-scale Western-type industrial production. Liu's figures[3] show in 1932–33 136 modern cotton mills in China, of which 64 were in Shanghai, 60 modern tobacco factories, of which 46 were in Shanghai, 83 modern flour mills, of which 41 were in Shanghai, and 2435 modern factories of all kinds in China, of which 1200 were in Shanghai. He estimated that 43 per cent of China's industrial workers in modern manufacturing were employed in Shanghai, and that the city accounted for 51 per cent of the value of China's industrial production.*

* Liu does not define "modern." According to his analysis of "modern" factories elsewhere in his work, the term means factories employing 30 or more persons and using power-driven machinery. However, on this basis his figure of 2435 "modern" factories for the whole of China in 1932–33 would seem too low.

2: Murphy G-4 (no date) 1953 AF15 East China AF15

Textile manufacturing was by far the leading industry in Shanghai in the period 1920–36, and included the spinning, weaving, and dyeing of cotton, wool, jute, flax, hemp, and ramie, and the spinning and weaving of silk. The pattern of manufacturing was in most respects typical of the early stages of industrial development, with textiles far in the lead and light consumer goods in general predominant. Shanghai, however, as the primary focus of the Westernization process in China in which a pre-industrial economy was suddenly confronted with the impact of a highly developed industrial economy, was also engaged to some extent in the production of capital goods to supply its own consumers'-goods production and that of most of the rest of China.

For the city as a whole in 1932–33, Liu estimated[4] that the textile industry accounted for 50 to 60 per cent of Shanghai's industrial workers and 40 to 50 per cent of the value of industrial output. Cotton spinning led the textile industries, followed by silk reeling, cotton weaving, wool spinning, and wool weaving in that order. Food industries were second, with 10 to 15 per cent of the industrial workers and 30 to 35 per cent of the value of industrial output. Flour milling was first in this category, closely followed by tobacco (cigarette manufacturing). Most of the rice entering Shanghai was milled in the hinterland collection centers and all of the relatively few rice mills in the city employed fewer than 30 workers.

Clothing industries ranked third, with 3 to 5 per cent of the value of the industrial output, leather and rubber goods fourth, with 2 to 3 per cent, paper and printing fifth, chemical industries sixth (including matches, soap, cosmetics, drugs, and production of industrial chemicals), and manufacture of machinery seventh.*

The Shanghai Municipal Council in its Report for 1935 published figures showing the distribution of factories and workers within the various industries located in the International Settlement, based on surveys conducted in 1934 and corrected to November 1935. In

* These figures for 1932–33 are representative for the period 1920–1936 despite the world depression, which affected Shanghai manufacturing relatively little and whose effect in Shanghai was delayed until late 1933 in most industries, with the exception of silk reeling and weaving, which were heavily dependent on the American market. See Liu Ta-chün, *The Growth and Industrialization of Shanghai* (1936).

2: Murphy G-4 (no date) 1953 AF15 East China AF15

471 the latter year, the government of the Chinese Municipality of Greater Shanghai collected similar figures for industries located in the Chinese Municipality (i.e., exclusive of the two foreign settlements).[5] The two sets of figures provide the most reliable indication available of the pre-1937 industrial pattern in Shanghai.

For the International Settlement

Industry	*Number of Factories*	*Number of Workers*
textiles	567	75,242
food, drink, and tobacco	155	35,886
machinery	1108	19,051
paper and printing	663	17,730
clothing	226	13,765
chemical (including soap, drugs, matches, and industrial chems.)	191	4,225
metal working	167	2,602
woodworking	98	2,010
bricks, pottery, and glass	45	1,637
vehicles (including boats)	20	1,292
leather and rubber goods	36	1,039
furniture	23	912
scientific and musical instruments and jewellers	22	640
public utilities	5	362
others	95	4,311
Totals	3421	170,704

471 392 The discrepancies of this list with Liu's figures on page 167 will be noted, in particular the relatively high place which it gives to machinery. It is obvious from the totals that the figures are not limited to factories employing over 30 workers, but the Council's Report indicates that they do not cover all the industrial establishments in the Settlement and are in general limited to those using power-driven machinery. This would help to account for the relatively higher place of machinery manufacturing, since the figures show that the average number of workers per factory producing machinery recorded in this survey is only 17. The figures also indicate the relatively larger-scale production in the textile, food-drink-tobacco, clothing, bricks-pottery-glass, vehicles, furniture,

2: Murphy G-4 (no date) 1953 AF15 East China AF15

and public utilities industries, and relatively smaller-scale production in the paper-printing, chemical, metal working, wood working, leather-rubber, and scientific-instruments-jewellers industries.

For the Chinese Municipality

Industry	*Number of Factories*	*Number of Workers*
textiles	690	73,448
vehicles (including boats)	46	50,472
food, drink, and tobacco	84	32,379
clothing	344	16,621
machinery	720	16,708
rubber and leather	78	11,845
chemical (including soap, matches and industrial chems.)	121	7,426
power generating	8	5,267
wood working	25	4,101
brick, tile, cement and glass	61	3,370
iron works	169	3,224
building materials	31	1,796
scientific apparatus and jewellery	72	1,779
furniture	46	(no figures)
others	181	17,023
Totals	2676	245,664

Machinery is high on this list also, but the figures show an average of only 23 workers per factory producing machinery. The relatively high place of vehicles and the apparently large scale of production in this industry are presumably accounted for by the two shipyards attached to the Kiangnan Arsenal and by the five foreign-owned shipyards on the right bank of the river.[6] Power generating is necessarily a large-scale industry, but it may be doubted whether six of the eight plants listed here are independent establishments rather than adjuncts, and particularly whether as many as 5,267 workers are employed directly in this industry or whether at least half of this figure represents auxiliary labor outside the plants themselves, such as linesmen, service men, etc.

The relative importance of the other industries listed here is about the same as listed for the Settlement, despite slight differences

2: Murphy G-4 (no date) 1953 AF15 East China AF15

471 in the categories. This second list also clearly includes many factories employing less than 30 workers, but again does not include all of the industrial establishments in the Chinese Municipality. We may assume that it too is largely limited to factories using power-driven machinery, but not necessarily that it includes all of these. 169 seems a large number of iron works, especially since this means an average of only 19 workers per factory; when it is considered that the Kiangnan Arsenal is included in this survey and that it alone employed about 700 men in 1932,[7] one may question the accuracy of these figures, or at least the nature of most of the other 168 iron works.

On the basis of an independent survey which he made in 1934, Liu estimated[8] that the eleven leading industries of the city as a whole, according to estimated annual value of output, were as shown in the table below.

Industry	*Estimated Annual Value of Output in CNC$*
cotton spinning	5,500,000
flour milling and wheat products	4,400,000
cigarettes	1,300,000
matches	720,000
silk reeling and spinning in steam filatures	430,000
chemical (soap, industrial chemicals, cosmetics, drugs)	330,000
cotton weaving	240,000
rubber goods	230,000
silk weaving	130,000
knitted goods	110,000
machinery	70,000

This list of course uses a different method of evaluation, and discrepancies with Liu's earlier estimates of 1932–33 will also be noted (see above, p. 167), but it re-emphasizes the major outlines of the city's industrial pattern as revealed in the other two lists above, namely, the preponderant position of textiles and of light consumers' goods generally, and the inclusion of some capital goods production among the leading industries.

One of the notable features of Shanghai manufacturing is the prevalence of small-scale production in private houses, or in dwell-

2: Murphy G-4 (no date) 1953 AF15 East China AF15

ings slightly altered to house machinery which is tended by the residents of the house, often members of one family. These small industries are engaged in a bewildering variety of production, and despite their universal under-capitalization, most of them use electrically-driven machinery. "Factories" of this kind produce, for instance, machine tools, cast iron, electric appliances, soap, acids, textile machinery, power presses, boilers, and telephone parts, as well as a long list of light consumer goods, such as flashlights, light bulbs, thermos flasks, clothing, lamps, electric fans, and food products.[9] Despite crowding and poor working conditions, the quality of production in these plants was apparently high. American orders for telephone parts were placed in Shanghai from 1932 to 1935 for export to South America, and the contracts went predominantly to these small household operators.[10] There was a very high rate of turnover among these "factories"; their small scale and small capitalization enabled them to react with great sensitivity to market changes and to crowd or evacuate lines of production alternately as profits varied.*

Market and Raw Materials

Market considerations are the leading factor in the concentration of manufacturing as a whole in Shanghai. As the primate commercial and industrial center of China, not only were capital, relatively trained industrial labor, and electric power available there more abundantly and in most cases more cheaply than anywhere else in China, but Shanghai includes in its trade hinterland half of the country. With the notable exception of the textile industries, most of the raw materials necessary to maintain Shanghai's manufacturing were not available locally in its immediate hinterland. It was the market which attracted and held most manufacturing.

We may logically begin with the exception, the textile industries. Shanghai is located near the center of China's chief cotton-producing

* The *Chinese Economic Bulletin*, published in Shanghai, records many of these changes. For example, there were 11 industrial establishments in Shanghai in November 1930, producing "gourmet powder" (made mainly from wheat flour), 9 in October 1931, and none in June 1932, according to the *Bulletin's* weekly industrial news columns.

2: Murphy G-4 (no date) 1953 AF15 East China AF15

Among the food industries, Shanghai's flour mills, as we have seen above in Chapter Nine, depended more heavily on foreign wheat imports than on what they drew from China. The six plants in Shanghai in the 1930's producing dried, powdered, or frozen eggs were all foreign-owned and all large-scale, employing an average of about 350 workers per plant.[16] The area from which they drew their eggs has already been outlined in Chapter Nine. While local sources were important in this industry, they did not fill the entire demand, and it was necessary to bring eggs from as far as Hankow. Shantung was also a large egg-producing center, but the factory production of preserved eggs in Tsinan and Tsingtao combined was less than a third of Shanghai's.[16] It is reasonable to suppose that a measure of this difference was accounted for by the water transport network feeding Shanghai and the lack of it in Shantung.

Of all the food industries in Shanghai, tobacco manufacturing was most notably divorced from major sources of supply. The cigarette industry in China had been started on a large scale by the American Tobacco Company in the late 1890's (it merged with British interests in 1902 to form the British-American Tobacco Company, the largest producer of tobacco products in China). During the first decade of the twentieth century, its foreign tobacco experts surveyed soil and climatic conditions in China and fixed on three main areas where American tobacco seed would grow best so that its leaf could be blended with the native Chinese leaf (which was produced in small quantities in most parts of central and north China but with the best quality leaf coming from the three areas selected by the foreign experts) to produce an inexpensive but good quality smoke. The three areas were located in south central Shantung, northwestern Anhwei, and central Honan. Large Chinese cigarette producers entered the field after 1905, drawing on the increasing domestic production of foreign-type leaf and blending it with Chinese leaf.[17]

In spite of the presence of large industrial centers (by Chinese standards) in or near these main producing areas (Kaifeng and Hankow for Honan, Kiukiang, Wuhu, and Nanking for Anhwei, Tsingtao and Tsinan for Shantung), approximately 60 per cent of

2: Murphy G-4 (no date) 1953 AF15 East China AF15

Cotton production is gradually increasing, and the expectation is that within the next two or three years enough will be available domestically (mainly in the delta area) to occupy Shanghai's full textile potential, which is still the largest of any city in the country.

Much shuffling around of the industrial pattern has resulted from government regulations on the types of manufacturing which may be licensed and may obtain the necessary power and supplies. During 1950 nearly 500 "factories" closed down, through financial failure and through inability to obtain licenses because they were considered non-essential under the new regulations. Most of the casualties were presumably small-scale manufacturers operating in private houses, who were before the war engaged in a great variety of production, mostly of consumers' goods. Many of these have since reopened, but in different production lines more in keeping with the government's new policy, and for which a market is available under the current austerity program. The government has for example refused reopening licenses to tobacco manufacturers, restaurants, hotels, and funeral establishments.[5]

The problem most frequently referred to in Chinese reports on economic Shanghai since 1949 is that of keeping pace with increased rural demand and rural purchasing power. This may be designed as an advertisement of the accomplishments of the land reform program in raising rural living standards, but it is repeatedly stated that industrial production in the city runs behind the demand in the country. Industries in the city showing the greatest profits during this period have been those producing light consumers' goods for which there is a ready local market. Dyeing leads the list, since the delta peasants are now sufficiently well off, if one may take the published reports at face value, to buy colored and printed clothing made in Shanghai. Western-type medical supplies are also listed, which would indicate a revolution indeed in the *mores* and income of the Chinese peasant. One report gives as an example of increased

---

of cotton textiles for China as a whole in 1950 and in the first six months of 1951 was between 20 and 30 per cent greater than the pre-1937 peak, domestic production of raw cotton is still inadequte to meet the demands of the textile industry. For an earlier post-war report, see Shen Wen-fu, The Increase in Cotton Production, (1948).

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

633 tion. Foreign voters were not willing to force a measure providing
466 purely for Chinese social welfare in the teeth of Chinese opposition. Following the failure to secure the proposed byelaw, the Council decided that, until the Chinese authorities themselves moved to regulate conditions of industrial employment, it would make no further attempt to concern itself with these issues. Larger forces,
665 however, were at work. While the Settlement authorities were attempting to limit the work of children, the Kuomintang, the National People's Party of China, met in Canton and adopted a much more extensive platform of social measures. In the late summer of 1926 the Kuomintang army began its march northward from Kwangtung Province and, by March 1927, had entered Nanking, which was to be the capital of the National Government for the next decade.

633 Shortly after, a unified Kuomintang-sponsored Chinese government came into control of the metropolitan area of Shanghai with the exception of the foreign-administered International Settlement and French Concession, and the Extra-Settlement Roads. A Bureau of Social Affairs, responsible for industrial conditions, was established by the new national government. Within two years of the failure of the Shanghai Municipal Council to obtain authorisation to regulate the employment of children, and its subsequent decision to await movement by Chinese government circles before attempting further action, machinery to introduce progressive action by the Chinese authorities had been made possible.

645 Between 1927 and 1932 the Ministry of Industries of the National
466 Government in Nanking promulgated a series of laws concerning labour. Among others these included a Factory Law, which regulated in general terms such matters as physical conditions and hours of work, wages in relation to living costs, compensation for accidents, termination of employment, factory councils and apprenticeship; a Labour Union Law; a Law governing Arbitration in Industrial Disputes; and others. The difficulty lay in the application of the code. Provisions regarding reform in factory conditions, for example, were so far reaching that early and complete conformity to the standards set could not be hoped for.

648 Moreover, the existence of the foreign-administered areas in
633 Shanghai raised jurisdictional issues. Since the Shanghai Municipal
466 Council was not specifically empowered under the Land Regula-
471 tions to regulate conditions of employment, the Chinese authorities

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

claimed the right to "inspect factories in the Settlement," aiming, however, at eventual control of all questions relating to labour in Settlement enterprises. The Council, on the other hand, held the view that, because of fundamental differences in systems of administration of law, the operation of officers of the Chinese Government in the International Settlement was not acceptable.[2] The fear was also entertained that, should regulation of industrial conditions be introduced into, and thoroughly enforced in, the Settlement, unequal competition would result with enterprises outside the Settlement where, it was felt, enforcement would be less complete. On August 1, 1931, when the formal statement of the Chinese Government declaring the Factory Act in force was published, there appeared also a statement by the Shanghai Municipal Council endorsing the principles of industrial regulation and indicating its intention of working toward safe and healthful working conditions. The outbreak of Sino-Japanese hostilities in January 1932 postponed the consideration of means to implement this general statement of principle until 1933, when it was decided to employ the Council's licensing powers to gain the desired ends.

In 1933, a special meeting of ratepayers was again convened, this time to change the general licensing byelaw (Byelaw 34)[3] to include industrial undertakings among the enterprises which the Council might license and hence regulate and inspect. This time the approval of the ratepayers, and subsequently of the Consular Body in Shanghai and of the Diplomatic Body in Peking, was secured by the Council. It then felt it had a constitutional right to license factories and, by this means, to enforce certain conditions. The Chinese view was still that such a byelaw was beyond the Council's powers under the Land Regulations.

The Chinese authorities in the metropolitan areas outside the two foreign-administered areas, having strengthened their position in the five years since the establishment of their municipal government, by now known as the Shanghai City Government, registered their protest at the passage of the amendment to the byelaw. In the eyes of the City Government the International Settlement was the "First Special District" and the French Concession the "Second

[2] "Regulation of Industrial Conditions," *Annual Report*, Shanghai Municipal Council, 1933.

[3] *Land Regulations of the Foreign Settlement of Shanghai*, Shanghai Municipal Council.

3; Hinder G-5 (1933-1942) 1944 AF15 East China AF15

471 Special District," areas temporarily beyond, but ultimately to be
648 restored to, its own jurisdiction. The claim was made that only the
633 City Government could regulate Settlement industrial conditions,
466 by enforcing the Factory Law of the Chinese National Government.

An event of importance to the whole problem of law enforce-
648 ment was the Court Rendition Agreement of 1930[4] between the
633 Council and the local Chinese authorities, which provided for the
692 return to complete Chinese control of the Provisional Court exer-
471 cising jurisdiction over Chinese citizens of the Settlement and over those residents belonging to nations without extra-territorial rights. From the 1911 Revolution until 1927 there had been a Mixed Court under foreign influence, expressed in part by the sitting of foreign assessors with the Chinese judges in the hearing of cases. Between 1927 and 1930 a Provisional Court functioned, giving place in 1930 to the Shanghai First Special District Court, completely under the direction of the Ministry of Judicial Administration of the Chinese Government. The new agreement provided that the Court should exercise jurisdiction over cases brought in by the Municipal Police of the International Settlement and arising out of infractions of all duly enacted laws of the Chinese Government, together with cases arising from breaches of municipal bye-laws. In limiting the laws which the Court would apply to those duly enacted by the Chinese Government, the agreement excluded the application of regulations promulgated by the various Chinese ministries.

648 Since the labour laws referred to above in each case state that
633 the competent authority is the municipal government in munici-
692 palities and the *hsien* (or county) government in *hsiens*, and since
466 the enforcing municipal authority in Shanghai recognised by the Chinese Government was the Chinese municipal authority, it was logical for the Court owing allegiance to the Chinese authorities to refuse to try a case brought in by a Shanghai Municipal Council organ under any of the labour laws.[5] In the eyes of the Court the

[4] *Municipal Gazette of the Foreign Settlement of Shanghai*, 1930 volume.

[5] All possible means of using the Court as an instrument of enforcement under laws other than labour laws were explored. In 1939 seven workers were burned to death when an apprentice spilled inflammable thinner over a charcoal stove which the owner of the factory had been specifically instructed by Council officials to remove from the workroom. The Municipal Advocate advised that no case would lie under Article 276 of the Chinese Criminal Code which prescribes a five-year

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

Council was not a competent authority within the meaning of the Chinese Government acts.

The matter was still further complicated by the fact that many owners of industrial enterprises in the Settlement enjoyed extra-territorial rights. While Chinese legalists argued that extra-territorial rights were of the person and not of the undertaking, in practice Chinese law could not be applied against foreign enterprises owned by those with these rights. At the same time the authorities of the countries with extra-territorial rights held in general that the labour codes of their respective countries did not apply in their Shanghai courts.[6]

---

sentence or heavy fines for negligence causing the death of others by neglecting the degree of care required in an occupation. The proximate agent only is held liable by the Chinese Courts, and in this case he, in the person of the apprentice, was dead. A case was, however, instituted under Article 33 of the Law Governing Penalties for Police Offences, which prescribes detention or fine for one who "undertakes any work or business contrary to mandate or regulations." Judgment was obtained against the factory owner. When, however, later cases were instituted against other factory owners failing to carry out instructions, the cases were dismissed.

[6] Two cases were heard in the United States Court for China in which application of American law was involved. In the first, in 1936, the widow of a linesman brought an action for damages against an American company for alleged negligence on the part of the company which resulted in death by electrocution of her husband. The case was dismissed. In his judgment the Judge stated that cases similar to the one in question were now rare in the United States because of the almost universal adoption of Workmen's Compensation Acts. Counsel for the plaintiff suggested the novel possibility of the Compensation Act of the District of Columbia being applicable. This, the Judge stated, required study. But he expressed the view that "it may not be impossible, even in this difficult jurisdiction, through reasonable construction and elimination of unsuitable portions to preserve the substance of the law in some fair and workable system which would be welcomed by both employers and employees."

A second case arose later in the same year. A non-American employee of an American corporation slipped on the floor of the employer's premises sustaining an injury for which damages were sought in a common law action based on the theory of negligence. The plaintiff contended that the defendant company, not having complied with the Workmen's Compensation Act of the District of Columbia, was barred in this action from maintaining the defences of contributory negligence and assumption of risk. The defendant contended that the District of Columbia Workmen's Compensation Act was not applicable in the Shanghai jurisdiction on the grounds of inherent unsuitability.

The Court ruled that the literal compliance with the District of Columbia Compensation Act would be impossible in the Shanghai jurisdiction, but expressed its belief that the principle of the law of the United States should not be ignored. The judgment referred to the "congressional will manifest in the passage of the District of Columbia Compensation Act" and believed that the "Court might award remedies to injured employees consistent with the spirit and objectives of federal legislation."

Judgment was entered for the plaintiff in the sum of US $1,200.

The Court later temporarily withdrew its Opinion pending further study. It was later restored, and the amount of the award to the plaintiff increased to US $2,200.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

648
633
460
471

How was such a complicated situation to be dealt with? How could a way be found to improve industrial conditions through administrative action? Fortunately the personal relations between the officers of the Chinese City Government and those of the Shanghai Municipal Council were cordial, despite official differences in viewpoint. The Council welcomed the suggestion of the Shanghai City Government that negotiations should be undertaken to discover if a solution could be found to the impasse. Communications on the subject actually began prior to the special meeting of the ratepayers in 1933, and discussions were continued actively immediately after the alteration to the licensing byelaw which had been approved by the Shanghai Consular Body, and before it had received the approval of the Diplomatic Body in Peking. The licensing power, though it had been obtained, was not immediately invoked. It was felt that its use at the time would probably have brought to a head resistance on the part of Chinese industrialists and others. Moreover, if by negotiation a method might be found by which the requirements of the Chinese Government's Factory Act could gradually be applied in the Chinese Courts against citizens of nations amenable to these Courts, and through some other procedure to those of other countries, the status of the national law would be upheld: it would not be replaced by local regulations. A more comprehensive instrument than license was felt to be desirable.

Conversations extended over four months in 1933, but no agreement was reached. In 1934 the Director of the Shanghai Branch Office of the International Labour Office attempted to use his good offices to find a way out of the deadlock, laying useful foundations. Chinese Government delegates to the International Labour Conference in Geneva in 1934 and 1935 raised the question of a solution to the jurisdictional difficulty in Shanghai. Subsequently, the Director of the International Labour Office in Geneva met with government representatives of Great Britain, the United States, Japan, France and Italy, who agreed to discuss the problem with their governments.

Between 1935 and the outbreak of the Sino-Japanese hostilities in 1937, negotiations between the Shanghai Municipal Council and the Shanghai City Government continued. At one point it appeared that a *modus operandi* had been reached, whereby the Council,

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

under authority delegated by the Chinese authorities, agreed to apply in the Settlement those portions of the Factory Act which were enforced in Chinese territory. The Consular Body, however, fearing that such an agreement would imply the partial abrogation of extra-territorial privileges, stated that it could be made applicable only to industrial interests within the Settlement which were subject to Chinese jurisdiction—i.e. to foreign residents without extra-territorial rights, and to Chinese. In that case, the Consular Body held, there would be no objection to a clause stating that the Council would, with the consent of the authorities concerned, apply a similar inspection procedure to all other factories by means of the powers vested in the Council by the Land Regulations.[1] No real progress had been made in the negotiations by the autumn of 1937 when, as a result of Sino-Japanese hostilities, the City Government ceased to function and its personnel withdrew from Shanghai.

WHILE THE FRONT STAGE had been given over to negotiations, the Bureau of Social Affairs of the City Government and the Industrial Section, the organ of the Council which had been created to deal with the regulation of industrial conditions, had not been idle. The Bureau had exercised a considerable influence within the Settlement even prior to the 1933 licensing byelaw amendment, and it continued to do so. Its officials did not inspect industrial premises, but they were active in mediating industrial disputes which were frequent and often bitter. Even foreign owners of industrial enterprises, who were most vocal in insisting that inspection of factories should remain in the hands of the Shanghai Municipal Council, in the absence of facilities provided by the Council to assist them in the settlement of industrial disputes yielded to the force of organised labour and in some cases gladly accepted the offer of mediation by officials of the Bureau of Social Affairs. Furthermore, the Bureau established a Statistical Section, which began to collect basic information concerning wages and hours of work, and instituted an intensive study of the cost and standard of living of Chinese workers inside and outside the Settlement. This programme finally produced cost of living index figures which were to play an important part in the adjustment of workers'

[1] *Municipal Gazette of the Foreign Settlement of Shanghai*, August 1936.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

648
633
466
471

earnings in the period of inflation following the 1937 hostilities. The Council's Industrial Section worked steadily at improving health and safety in the Settlement's industrial enterprises. In its desire that nothing should interfere with a possible agreement with the Chinese authorities, it did not, prior to 1937, compete in the mediation of disputes but remained in the less controversial field of hygiene and safety promotion. The concentration of factories and workshops within an area of some nine square miles placed them within easy reach of inspection and made transport a much less difficult problem than was the case for the Chinese authorities, in whose extensive territory factories were widely scattered. While the frequent use of dwelling houses as factories and workshops in the Settlement limited the improvements which could be made, there was a general rise in standards between 1933 and 1937.[8] Trade by trade, a steady drive improved machine safety, safety in the use of pressure vessels, provisions for industrial hygiene, and general working conditions. Relying only on the general authority of the Council and on reason and good will, the Industrial Section used educational means to induce employers to take steps toward factory improvement. The Court could not be invoked, but considerable success was nonetheless achieved.

WITH THE OUTBREAK of Sino-Japanese hostilities in 1937, all industrial enterprises in the Settlement closed. In the western district Chinese and non-Japanese foreign-owned undertakings re-opened shortly after. Those in the eastern district, which was held by the Japanese Naval Landing Party, were in the area of heaviest fighting where blocks of Chinese-owned undertakings were destroyed. Five months after the hostilities had commenced, foreign-owned plants were found to be "islands in a sea of destroyed Chinese enterprise." Comparatively few foreign factories suffered much injury, but they remained closed until the spring of 1938. By the end of 1938 all foreign-owned and many smaller Chinese-owned plants in the eastern district had been re-occupied. Larger Chinese-owned plants were operated by Japanese occupiers. Although Japanese offers of restitution to legal owners with the object of co-operation in their management were made, there was little response by Chinese.

[8] See Chapter III.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

A period of reconstruction ensued until the end of 1940. Much of the money of the nearby provinces had found its way into Shanghai banks during the early days of the hostilities. This money early sought employment. There was a building boom in the western district of the Settlement proper which had been free from fighting and which was one of the few areas on the China coast where Chinese industrial enterprises could develop without Japanese control. In 1938 the Government of China retired successively to Hankow and later to Chungking. Many Shanghai Chinese factory owners, while rebuilding in Shanghai, were prepared also to play their part in the industrialisation of interior China which was to be so significant in the succeeding years. Their plants in Shanghai were equally important for the war effort of Free China; however, in the years that intervened between 1938 and the outbreak of Pacific hostilities in 1941. While Hongkong remained open as a port and until through Japanese instigation the Chinese Customs in Shanghai in the autumn of 1941 prevented the export from Shanghai of certain commodities including cotton goods, very heavy shipments month by month left for the south for transport into interior China. Much cargo found its way out of Shanghai by canals and even by human transport, finally penetrating the Japanese lines and reaching the western provinces. The importance of Shanghai as a supply base during almost four years of war can be recognized when the commodity situation in free China in 1942 and later is considered. There were never sufficient consumer goods in the interior even when the trade channels from the coast were open; but the worsening of the situation and the consequent extreme rise in price levels date from the loss of Shanghai products.

In the western district Extra-Settlement area, in the enclaves between Settlement-policed roads, hundreds of new industrial structures began to rise on former vegetable gardens drained by tidal creeks. Over their construction the Shanghai Municipal Council could exercise no authority. These workshops and factories lacked elementary sanitary provisions, and, because the flimsy buildings were of inflammable material, fires were frequent. But as soon as fire had destroyed a building, the indomitable Chinese small industrialist began its reconstruction. Within the limits of the Settlement proper, the reconstruction period was used as far as possible by Public Works and Health Departments, as well as Fire Brigade

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

466 471 178 633 648

and Industrial Division to secure improved industrial conditions. Two contrary tendencies were observed. Owners of destroyed enterprises, previously operating either in the eastern district of the Settlement or in provincial cities, in many cases showed a disposition to take advantage of new construction to erect better and more modern plants in the western district. Control in many of these cases was in the hands of younger men, trained in engineering schools abroad, sons of pioneer fathers who in earlier days had ventured into the field of industry with little capital and had succeeded. The new generation had new ideas. The other tendency unfortunately was in the opposite direction. Men who had lost all, and who were unable to accumulate capital with which to start again on a larger scale, began with very small undertakings in which good working conditions were impossible. Better, it could be argued, that workers should earn a livelihood than remain a charge on public charity, even if their working conditions were unsatisfactory to an enlightened administration. The Council's Industrial Section in these circumstances strove to persuade enterprises to conform to as high a standard as appeared possible in each case.[9]

In addition to these efforts at industrial betterment, the Shanghai Municipal Council, soon after the outbreak of hostilities, agreed to finance the continuation of the statistical work of the Bureau of Social Affairs of the former City Government. This proved to be a significant step, for it provided an accurate instrument by which the community could gauge the effect on the cost of living of the inflation and of the control of commodities after 1938. The Industrial Section also entered into the field of voluntary mediation of disputes. In 1939 and the early part of 1940 foreign-owned enterprises were affected by one strike after another. The deterioration of economic conditions in 1940 and 1941 created widespread unrest, involving public utility enterprises and many others. The mediation services of the Section were useful in the settlement of disputes and in laying the foundations for an important contact with labour. The Section concerned itself also with the basic question of technical training, organising experimental classes for adult workers which will be described later.[10]

[9] See Chapter III.
[10] See Chapter IX.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

Because of this wider activity, the Council on October 16, 1940, severed the former Industrial Section from the Secretariat and established a separate Industrial and Social Division.[11] Within the Division there were created four Sections. They were the Industrial Section, maintaining its concern with physical conditions of employment and including the Technical Training Service, which organised technical classes for adult workers; the Statistical Section, responsible for compiling indices of living costs of Chinese and foreign employees, and statistics of wages and hours of work; the Industrial Relations Section, mediating industrial disputes and concerned also with non-physical conditions of employment, including workers' earnings and compensation; and the Welfare Section concerned with hygiene in the factories, workers' food and housing, and factory medical services, with the control of rentals of lower paid sections of the community through a licence to sublet, and with child protection.

In April 1941, an Industrial and Social Affairs Committee of the Council was formed, composed of members chosen to represent varying national interests and differing points of view. There was no representative of Chinese workers upon it. The social outlook of neither Chinese employers nor Western foreign employers had yet seen the right of the worker to have his viewpoint represented; still less would such a view commend itself to Japanese. The most that could be achieved was to inject into the membership sufficiently liberal representatives who could be counted on to speak for the common man.

WHEN PACIFIC HOSTILITIES developed in December 1941, industry, which throughout that year had met successively restrictions and steep surcharges in the use of electric power, difficulties in securing raw materials in the United States and elsewhere, controls in the purchase of foreign exchange to pay for imports, and a great shipping shortage, now faced a major crisis. The Japanese authorities required the immediate registration of stocks of essential raw materials—metals, fuels, lubricating oils, chemical products and many others. These were first frozen by preventing their movement. Those found necessary for the Japanese war effort were requisitioned. Later, permission to move stocks was granted to

[11] In subsequent pages frequently referred to simply as the "Division."

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

471 [439] Sino-Japanese trade associations which were required to be formed for the purpose; no individual firm could make application for permits directly. Unit prices of power were increased by the Japanese-controlled, former American, Shanghai Power Company; coal, though controlled, was difficult to obtain at the official price and was very expensive on the black market. In consequence of all these factors many plants closed. Others still operated but on a reduced scale. Checks made by the Division in the Spring of 1942 indicated that only 55 per cent of former plants carried on, and these with only some 50 per cent of the former working force. Approximately 100 American- and British-owned plants, the most significant enterprises in the city with the exception of the textile mills, came under Japanese control. These were variously dealt with. Some continued operations fulfilling orders for military purposes. These included breweries, bakeries, cigarette plants and rubber shoe factories, as well as machine shops making subsidiary munition parts. Others produced goods for civilian use. Some were operated under direct Japanese control. Others continued to be operated by former foreign staffs under Japanese supervision and instruction.

Industry in Shanghai began to conform to the pattern laid down for it by the Asia Development Board, the instrument of the Japanese military forces of occupation in the economic field. A thorough survey of all plants employing 30 workers or more in the Settlement, of whatever national ownership, was completed by the Japanese Board by June 1942. Teams of experts went into all enterprises to examine the financial structure, the mechanical equipment, the production capacity, the raw materials and finished goods on hand. Thenceforth the Board determined which plants would operate and what goods they would produce.

471 464 466 166 722 The closure of so many plants created much unemployment. Many workers were induced by reduced fare concessions to return to the provinces. There were prolonged struggles on the part of discharged workers to obtain dismissal allowances adequate to finance their return home and to tide them over months in which they might try to adapt themselves to new means of livelihood. Only one month's earnings and a second month's to those who actually returned to the country, were, however, enunciated by the Japanese authorities as a standard, despite the efforts of the Division to secure a better arrangement.

[1] [after December, 1941 -- Analyst]

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

to secure a better arrangement. Indeed, many employees of foreign firms taken over by the Japanese had to accept, under threat, allowances considerably short of this scale.

Thus very soon after the commencement of the Pacific hostilities, the former bustling industrial Shanghai died. The air, once polluted with the smoke of countless chimneys, cleared miraculously. Streets formerly grimed with coal dust became strangely clean. But these were improvements which boded ill for the people's livelihood. To the streets instead came to die many who could not find food or shelter.

Little detailed information is available as to conditions in Shanghai after August 1942. But the social problems of the city are substantially the same whether there is Japanese direction of the former administration or not. The Division will probably be forced during the period of isolation from the outside world, and through the proposed pseudo-changes in the Land Regulations referred to above, to use the Japanese-instructed Nanking Government Courts in enforcement. This may have one useful effect, that of removing those dangers of inequity and lack of evenhanded justice which exist when every factory engaged in the same trade is not subject to the same official scrutiny on the basis of clear regulations. The work of the Division in the last decade has shown that specific formal authority is not essential for useful achievement. The power of accurate facts has been very great. The appeal to reason has not been without result. While industrial conditions at the close of the decade were in many cases still thoroughly bad, within the limits of authority and capacity a not inconsiderable progress had been made prior to December 1941, laying the foundations of improvement in the lives and livelihood of workers in Shanghai.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

These principles were the expression of the spirit with which the work was begun and carried through: that Chinese and foreign members of staff were equal partners in a high adventure. There was a real comradeship based on mutual respect for the capacity and the motives of each individual of whatever nationality. The especially fine minds and wise judgment of Chinese colleagues, steadily creating their own work in their own fields, found appreciation among the foreign staff; the generous sharing of experience and the friendship of British, Austrian, Danish and Japanese staff members with their Chinese colleagues was equally welcomed. In short, a comradeship, consciously aimed at and greatly desired in advance in the early years of the Division's life, was achieved.

As members of the staff were sent out to make initial contacts with factory owners in the early years they had one instruction: to make friends. In the absence of powers of entry, with the possibility that they would be refused, nothing could be done unless they could make themselves wanted. To a large extent the staff succeeded. As time went on and contacts widened, the Division staff earned an enviable reputation for knowledge in their field, so that they were welcomed on this account as well as personally. Moreover, the absence of power to enforce court action has some compensations. Staff members knew that on themselves alone and on the vigour they were able to bring to their work depended their success. Unless a factory owner could be convinced of the reasonableness and rightness of the request made, the possibility of obtaining compliance was remote. And, further, the lack of power to hale into a Court meant that it was seldom considered worthwhile by an employer to offer to suborn a member of the staff so as to escape the necessity of carrying out his requirements. The total effect of these factors was to give to the Division staff a satisfactory status in the community and a useful relationship with the majority of Chinese employers.

Foreign employers reacted somewhat differently to the Division's efforts. For the most part physical conditions were considerably better in British, American, German and Japanese plants than in Chinese-owned enterprises. In consequence in the efforts to achieve safety and better hygiene, less had to be done in foreign enterprises. Many western employers had the same attitude to "government

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

466 633 471 interference" as employers in their home countries had entertained decades before. Both western and Japanese employers knew that no specific power lay in the hands of the Council to enforce standards. But in general they, too, welcomed the Division staff, submitted with good grace to suggestions for improvement, and carried out the recommendations made. Japanese employers were punctilious in installing safety devices suggested. They were not unwilling to meet Japanese standards in safety and hygiene generally. But neither Japanese nor Western nor Chinese employers were ready to consider modifications of hours of work, or rest days, matters in which—especially in the textile industry—reform was greatly needed.

In the absence of enforcement powers it was sometimes necessary to use something more than sweet reasonableness. A Chinese member of staff would report inability to secure compliance from a Chinese factory owner. Then the device of sending a foreign member would be resorted to. Or a foreign member would report he could do nothing with a certain Chinese owner: and the device of "changing the record," sending a Chinese voice, would be used. Or a man member of staff would fail; and then the eloquence of a Chinese woman, to which no mere Chinese man can stand up, would be used. Or again, failing to achieve success by talking on the premises of the industrialist where he was at home, he would be invited to the office of the Division, and, strangely, would most frequently comply. Then the staff, being in turn at home and hence with a psychological advantage, would urge its point of view. In most cases and by the use of one or other device, success was recorded. It cannot be denied, of course, that this was achieved at the expense of much effort, much waste effort, which the possession of ordinary powers of enforcement would have made unnecessary. It is thought, however, that more education was done through the means that had to be adopted than would otherwise have been the case. The one basic principle was belief that always there was *some* way in which a situation could be bettered.

466 633 EVENTS DURING THE decade in which the work described in this monograph took place induced a certain change in general attitudes. When, in 1940, it was decided to set up a regular Council committee to be concerned with the Division's work, a Councillor

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

approached for their views on an industrial census, the last-named as to their willingness to supply needed information. With world-wide hostilities raging, the usual reluctance to supply confidential information was enhanced in most national groups. It was necessary therefore to abandon the plan, and in consequence no accurate measuring rod exists with which to assess Shanghai's industry.

During the first half of 1942, the Asia Development Board, the organ of the Japanese Military which dealt with economic questions, undertook a complete study of all industry, of whatever national ownership, with a view to its use in Japan's war effort. The results have naturally not been made available.

The great majority of factories and workshops in the Settlement were, prior to December 1941, of Chinese ownership. The larger plants and those employing the most workers were generally in foreign (Japanese and western) hands; and, of these, western interests owned the comparatively few plants which approximated "heavy industry." In general, foreign-owned plants were modern and well-operated. Except in the textile industry their hours of work were shorter than in Chinese plants. Earnings were somewhat higher also. It is believed that in Shanghai there were some 1,800,000 spindles in 38 Japanese-owned or Japanese-controlled cotton textile enterprises, 240,000 in five British, and 650,000 in 21 Chinese-owned cotton mills.[2] Individual cotton mills employed as a rule from 1,000 to 4,000 workers, some more. There were few other Chinese-owned plants with as many as 1,000 employees, and though a larger number of medium-size Chinese-owned industries existed, many of them were but extensions of domestic industry.

In the absence of sufficient small buildings erected for industrial purposes, hundreds of small Chinese factories and workshops were housed in buildings originally designed as dwellings and converted to industrial use. In the majority of cases, those who worked in these buildings lived in them without sleeping accommodations separate from their working quarters. A workshop by day was a dormitory by night; untying a bedding roll and spreading it out made sleeping quarters of the same few square feet in which the daytime tasks were performed. The housing congestion which is de-

[2] A world total of 145,923,000 spindles was divided in part as follows: China, 4,450,000 spindles (estimated); Japan, 11,502,000; India, 10,054,000; Great Britain, 36,322,000; the United States, 25,378,000; European continent, 50,205,000. (*The Cotton Year Book*, New York Cotton Exchange, New York, 1939.)

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

worker claimed his right through the Court; indeed, the fact that they had rights under the law was known to comparatively few. In consequence the families of many workers killed in industrial accidents accepted less than their legal due, and many temporarily or permanently incapacitated received none of the benefits which the law intended they should have. While in most countries claiming of compensation is left to the worker or his family, in others where the general educational level of workers is not high, it is part of the administrative function to see that compensation payments are made. It would appear that the Chinese Government, in outlining the duties of factory inspectors in the Factory Inspection Law promulgated February 10, 1931, excluded concern with compensation payments of the Factory Act from the duties of inspectors. A programme for the enforcement of factory inspection approved by the Ministry of Industries in April 1934 stated "the factory inspector shall limit himself to the investigation of the actual conditions in which a worker is injured, falls sick, or is killed in the performance of duty."

Commencing where the family loss is greatest, the Division for some years acquainted employers of workers killed in the line of duty with the standards of the Chinese Government Factory Act. Later cases involving workers seriously injured were also taken up. This law was not applicable to foreign employers who were citizens of countries with extra-territorial rights.[8] It was found that the

the average wages of three years, nor be less than the average wages of one year;

(3) For the worker killed in the course of his or her employment, the factory shall, besides giving fifty dollars for funeral expenses, pay to the legal heirs a compensation of three hundred dollars and two years' average wages.

The average wages mentioned above shall be calculated on the basis of the wages for the last three months of his or her employment in the factory.

Funeral expenses and compensation shall be paid all at once, while allowances for injury or sickness or disability may be paid by instalments.

[8] See pp. 8, 9 for cases involving United States companies and the viewpoint of the U.S. Court for China. In enunciating the principles underlying compensation the Court stated: "It has long been recognized that accidents to workmen in industries are bound to occur where no actionable negligence can be attributed to the employer under common law principles. The hardship and suffering entailed by inevitable accidents, the burden of litigation to poor workmen and their families, and the harassment of unfounded litigation to employers where there was no legal liability, are all factors which helped to bring about the compensation acts. However, the most compelling reason was the conviction that social justice fairly demands that industry should bear the cost of industrial accidents and that labourers injured in the line of duty should be compensated for disabilities regardless of who was or who was not negligent."

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

466 633 471 law was an instrument in inducing payments somewhat more adequate, and standards improved year by year. Rising costs of living and falling dollar values made the actual dollar standards of the Act inapplicable. Employers showed a willingness to adjust to changing economic situations in amounts of compensation paid.

In 1940 amounts of compensation were known in 35 cases, 21 of which were Chinese-owned enterprises, nine Japanese, two each American and British, and one German. Amounts ranged from $500 to $2,000. One American enterprise regularly paid compensation based on the number of months of service together with cost of living percentage allowance in force at the time of death, and a sum of $15 per month payable till the eldest son was 14 years. Another, a Chinese enterprise, agreed to pay $30 per month during 12 years till the eldest son should earn.

In 1941 compensation for accidents resulting in deaths was known in 19 cases, and for serious injuries in 12 cases. Of the total of 31, 19 were in Chinese concerns, six in Japanese, three in British, two in American and one in a Swiss enterprise. Amounts ranged from $500 to $6,000 in cases where death occurred. Five months' wages were paid by a Chinese concern where a worker lost fingers; another Chinese plant paid a year's wages for loss of an arm. A silk weaving factory, Chinese owned, paid $500 to an apprentice who had lost an arm; a Swiss metal industry drew, from an insurance company, 1½ years' pay and allowances for a worker who had lost his leg.

466 633 A compensation arrangement such as probably never occurred elsewhere was made in the case involving the breaking of a leg of a young girl of eleven years of age. She had been employed as a substitute by a somewhat older girl to work in a stocking factory and had fallen over a horizontal shaft, causing the injury mentioned. The management claimed it had no responsibility for her presence in the factory—a view which it was not allowed to maintain. The Division finally induced the management to pay hospital expenses and to provide compensation in the form of one pound of soya bean milk per day delivered to her home for a period of six months. The Division saw the receipt for the account for the milk, which was paid in advance.

466 Looked at in the light of the relation between compensation payments in the case of death of a worker and the needs of a family

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

On the whole, however, workers exhibited a capacity to think 468
logically about their problems, and a willingness to negotiate rather than to resort to violence. Indeed, violence was rare, while orderly negotiation was very common.

Resort to strike-breaking by management was infrequent, but not unknown. In two disputes in 1940 Jewish refugees newly arrived from Europe were called in. However, their lack of the specific skills involved as compared with that of the Chinese workers, and the higher remuneration which they demanded made their employment beyond the emergency period uneconomic for management. In a few instances as in some public utility enterprises, Russian workers were employed on a permanent basis in order to have labour available in the event of a dispute with Chinese workers which would result in the paralysis of an important industry. One German-owned bakery in 1942 asked the Division if it could supply bakers to replace those intending to strike, on the ground that the public interest in the supply of bread was at stake. The management was informed that the Division did not break but mediated strikes, and through mediation the Division averted the threatened stoppage of work to the satisfaction of all concerned. It can be seen that certain employers entertained primitive ideas of employment relations and of the function of authority in the settlement of disputes.

There was little uniformity in the attitude of employers toward 468
the activities of labour. Some western foreign-owned enterprises 467
permitted actual union organisation, and entered into negotiations 471
with duly elected representatives. Others allowed no formal organisation, though they tacitly admitted the right of their employees to collective action by negotiating with them, either with or without an independent mediator. Yet others again permitted no group activity, and many instances were known where workers who led their fellows were dismissed from their employment. Until workers may express themselves without fear of loss of employment, full freedom of workers to act collectively cannot be said to exist. Dismissal for those associated with group activities occurred in plants of Chinese ownership, although the Chinese Government's labour Union Law gives protection to those who organise.[2] This law was

[2] Article 31 states: "An employer or his representative shall not refuse to employ workers or dismiss workers or accord other unfavourable treatment to them because

3: Kinder G-5 (1933-1942) 1944 AF15 East China AF15

not applicable to owners of factories with extra-territorial privileges, to American, British, or Japanese owners.

The attitude of the Shanghai Municipal Council toward labour organisation was not specifically formulated. While a procedure of registration of organisations with the Special Branch of the Municipal Police as a means of crime prevention was instituted as an emergency measure after the 1937 hostilities, the registration of workers' groups was not encouraged.[3]

As stated elsewhere, industry in the past did not pay adequate wages, many workers being employed at remuneration insufficient to meet the needs of a family.[4] There was no effective legal instrument for enforcement of minimum wage standards, but mediation procedure frequently was useful in achieving earnings adjustments. When a dispute occurred a first step was to request from the management the wage sheet of the preceding month, together, if possible, with the wage sheet of the corresponding month in 1936. It was then possible to find the actual earnings indices, and to compute real wage indices, so that the spending power of earnings became apparent. These earnings were further compared with the minimum subsistence costs regularly published monthly by the Division. By these two procedures the parties became aware of the actual wage situation, and efforts were exerted to have adjustments made so as to meet as nearly as possible the published figures.

An important instrument to further betterment of conditions was the signing of a collective agreement to which factory managements, workers' representatives, and the Division, were parties. A written agreement is better than verbal promises. Moreover, being an agreement to which the parties had voluntarily agreed, it had the moral force of a contract.

The agreements covered a wide range of conditions of employment including wage increases, allowances of various kinds, provision of annual bonus and profit sharing, provision of hospital

---

of their affiliation with the labour union . . . shall not make it a condition of employment that the worker shall not take charge of any business of the union or that he shall not enter a union or that he shall withdraw from the union." Translation by Koo Ping Yuen, *Chinese Labor Laws*, second edition, Commercial Press, Shanghai, 1935.

[3] See Chapter II.

[4] See Chapter III.

3: Hinder G-5 (1933-1942) 1944 AF15 East China AF15

disposed of by the benevolent society or a public agency. The issue is at base that laboured sufficiently in preceding pages—low earnings of employed workers.

THERE IS A GROUP OF workers in Shanghai whose conditions of employment were such that the public called for special investigation of them. These are the pullers of public rickshas, one of the many groups of workers engaged in transportation—an industry which in China even prior to December 1941[3] depended more on human labour than on mechanized vehicles. The pullers of hand-carts, and those who use a pole on their shoulders for carrying loads, are also transportation workers, but there was little public interest in the latter groups, even though their work is in some respects as arduous as that of the ricksha pullers.

In 1933, at the suggestion of the Rotary Club, the Council undertook an enquiry into the working conditions of public ricksha pullers. This group of pullers does not own rickshas but hires them on a twelve-hour shift. The conviction of the community was that the pullers were being exploited by the owners of the rickshas or by their agents, sub-contractors through whom the rickshas were leased. The committee of enquiry examined the advisability of centralising the public ricksha industry in a utility company, and did in fact finally recommend that a beginning be made by the organisation of one company to operate a fleet of two thousand vehicles. The committee felt that little could be hoped for in the way of better care of vehicles and better conditions of operation for the pullers as long as the rickshas were owned by more than a thousand individuals.

It transpired that since the number of public rickshas was limited to about ten thousand, the Council's ricksha licence to operate a ricksha had acquired a fictitious value of several hundred dollars. Owners sought to recover as rent an investment return, not on the price of the ricksha and the cost of a licence, but rather on the money paid by them to the holder of a licence based on the enhanced value of the licence itself. Hence pullers were paying a rental out of all proportion to their earning capacity.

[3] After this date no further importations of gasoline took place and motor traffic disappeared largely from the streets except for vehicles on public service. Some were converted to be used with substitute fuels.